

### **REMARKS**

Applicant respectfully requests entry and consideration of the above amendments even though presented after a final rejection. Applicant submits that the amendments do not raise new issues or require a new search. Further, entry and consideration of the amendments may isolate issues for potential allowance or appeal. The amendments were not presented earlier in the prosecution due to a better understanding of the Examiner's position as reflected in the latest Office Action.

#### **Summary**

Claims 1, 3-5, 7-9, 11, 14 and 16-19 stand in this application. Claims 1, 6, 10, 12, 13 and 15 have been canceled without prejudice. Claims 1, 8, 11 and 14 have been amended. No new matter has been added. Favorable reconsideration and allowance of the standing claims are respectfully requested.

Although Applicant disagrees with the broad grounds of rejection set forth in the Office Action, Applicant has amended claims 1, 8, 11 and 14 in order to facilitate prosecution on the merits.

#### **Examiner Interview**

Applicants would like to thank Examiner Won for conducting a telephone interview with Applicants' representative on March 27, 2007. During the interview, Examiner Won and Applicants' representative discussed the independent claims, the applied reference(s), and the grounds of rejection. The substance of the interview is reflected by the foregoing amendments and the following remarks.

**35 U.S.C. § 102**

At page 3, paragraph 5 of the Office Action claims 1-5, 7-9, 11, 12 and 14-19 stand rejected under 35 U.S.C. § 102 as being anticipated by United States Patent Number (USPN) 6,700,890 B1 to Langley et al. ("Langley"). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the anticipation rejection.

Applicant respectfully submits that to anticipate a claim under 35 U.S.C. § 102, the cited reference must teach every element of the claim. *See* MPEP § 2131, for example. Applicant submits that Langley fails to teach each and every element recited in claims 1, 3-5, 7-9, 11, 14 and 16-19 and thus they define over Langley. For example, with respect to claim 1, Langley fails to teach, among other things, the following language:

automatically configuring said first PVC using a list of probe values sent with test packets to probe for configuration information for said first PVC, and using said configuration information to configure said first PVC, wherein said probe values and said configuration information comprise a virtual channel identifier (VCI) and a virtual path identifier (VPI);

wherein said automatically configuring comprises:  
    sending test packets to said DSLAM using said probe values;  
    receiving a response packet to one of said test packets;  
    retrieving said configuration information from said response packet; and  
    configuring said PVC using said retrieved configuration information.

According to the Office Action, this language is disclosed by Langley at column 3, lines 1-37 and column 5, lines 21-40. Applicant respectfully disagrees.

Applicant respectfully submits that Langley fails to teach, suggest or disclose the missing language. Langley at the given cites, in relevant part, states:

If all values in the table are desired or individual VPI and VCI values are not known, an SNMP "getnext" command sent from the requesting device to the receiving device along with a parameter having the same format as the parameter to the getrequest command. The values of the item, VPI and VCI in the parameter of the initial request are zero and the identifier of the table is returned by the receiving device with the first row of the table 280.

In contrast, the claimed subject matter teaches "sending test packets to said DSLAM using said probe values"... "wherein said probe values and said configuration information comprise a virtual channel identifier (VCI) and a virtual path identifier (VPI)." Applicant respectfully submits that this is different than the above recited language of Langley.

Applicant respectfully submits that Langley, arguably, teaches a sending endpoint that sends an SNMP getnext command to a receiving endpoint, and that this getnext command contains zero (e.g. null) values for the VPI and VCI respectively. The receiving endpoint in turn responds to the getnext command with the appropriate configuration information, including the appropriate VPI and VCI values. In contrast, the claimed subject matter teaches "sending test packets to said DSLAM using said probe values"... "wherein said probe values and said configuration information comprise a virtual channel identifier (VCI) and a virtual path identifier (VPI)." Applicant respectfully submits that the claimed subject matter teaches sending the VPI and VCI probe values along with the test packets from the DSL device (e.g. sending endpoint) to the DSLAM (e.g. receiving endpoint).

Applicant respectfully submits that sending null values for the VPI and VCI along with a getnext command, as arguably taught by Langley, is different than “sending test packets to said DSLAM using said probe values”...“wherein said probe values and said configuration information comprise a virtual channel identifier (VCI) and a virtual path identifier (VPI).” Consequently, Langley fails to disclose all the elements or features of the claimed subject matter. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claim 1. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection with respect to claims 3, 4, 5 and 7, which depend from claim 1 and, therefore, contain additional features that further distinguish these claims from Langley.

Claims 8, 11 and 14 have been amended to recite features similar to those recited in claim 1. Therefore, Applicant respectfully submits that claims 8, 11 and 14 are not anticipated and are patentable over Langley for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claims 8, 11 and 14. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection with respect to claims 9 and 16-19 that depend from claims 8 and 14 respectively, and therefore contain additional features that further distinguish these claims from Langley.

For at least the above reasons, Applicant submits that claims 1, 3-5, 7-9, 11, 14 and 16-19 recite novel features not shown by the cited references. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 1, 3-5, 7-9, 11, 14 and 16-19 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present patent application.

Respectfully submitted,

KACVINSKY LLC

A handwritten signature in black ink, appearing to read 'John F. Kacvinsky', with a long horizontal flourish extending to the right.

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John F. Kacvinsky, Reg. No. 40,040  
Under 37 CFR 1.34(a)

Dated: March 27, 2007

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